

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

IN RE NEW ENGLAND COMPOUNDING)	
PHARMACY, INC. PRODUCTS LIABILITY)	
LITIGATION)	
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THIS DOCUMENT RELATES TO:)	MDL No. 2419
)	Dkt. No 1:13-md-2419 (RWZ)
Suits Naming the Tennessee Clinic)	
Defendants)	
)	

**NOTICE OF POSTPONEMENT OF DEPOSITIONS OF
NECC AND NECC INSIDERS
DUE TO PENDING MOTIONS FOR PROTECTIVE ORDER**

Defendants Saint Thomas Outpatient Neurosurgical Center, LLC; Howell Allen Clinic, a Professional Corporation; John Culclasure, MD; Debra Schamberg, RN, CNOR; Vaughan Allen, MD; Specialty Surgery Center, Crossville, PLLC; Kenneth R. Lister, MD; Kenneth Lister, MD, PC; and Donald E. Jones, MD (collectively "Tennessee Clinic Defendants") give notice to the Court and to all parties of the following:

1. The Tennessee Clinic Defendants have served the following subpoena and notices for depositions:
 - a. New England Compounding Company (May 13-14)
 - b. Lisa Cadden¹ (May 15)
 - c. Doug Conigliaro (May 21)
 - d. Carla Conigliaro (May 21)
 - e. Greg Conigliaro (May 22).²

¹ The PSC is presently requesting to set trials of cases against the Tennessee Clinic Defendants. Barry Cadden, Lisa Cadden, Doug Conigliaro, Carla Conigliaro, Greg Conigliaro, and Glenn Chin are co-defendants in numerous suits against the Tennessee Clinic Defendants, including in the cases that are possible candidates for the initial trials. They have not yet submitted to written discovery or depositions in any cases, to the knowledge of the Tennessee Clinic Defendants.

² The depositions of Barry Cadden (May 15) and Glenn Chin (May 22) have been noticed by the Premier (New Jersey) Defendants.

2. Along with the subpoena for deposition to NECC, the Tennessee Clinic Defendants served a subpoena *duces tecum* on NECC.

3. Along with the notices of deposition to the NECC Insiders, the Tennessee Clinic Defendants issued written discovery.

4. Counsel for the Tennessee Clinic Defendants has conferred with counsel for the Trustee. The Trustee takes the position that NECC should not be required to submit to a deposition because it has no corporate officers or employees willing to testify and that the Trustee believes a deposition is unnecessary. The Trustee has filed a motion asking the Court to prohibit the Tennessee Clinic Defendants from taking a deposition of NECC.³ The motion has not yet been heard.

5. Counsel for the Tennessee Clinic Defendants has conferred with counsel for the NECC Insiders listed above. The Insiders take the position that they should not be subject to written discovery or oral depositions because they will assert their constitutional right against self-incrimination. The Insiders have filed a motion asking the Court to prohibit the Tennessee Clinic Defendants from taking their depositions and have likewise refused to answer written discovery.⁴ The motion has not yet been heard.

6. In light of the now-pending motions filed by the NECC Trustee and by the Insiders, the depositions noticed by the Tennessee Clinic Defendants must be postponed indefinitely pending resolution of the issues by the Court.

³ Dkt. 1810.

⁴ Dkt. 1823.

Respectfully submitted,

GIDEON, COOPER & ESSARY, PLC

/s/ Chris J. Tardio

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* Admitted pursuant to MDL Order No. 1.

** Admitted *pro hac vice*.

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the CM/ECF system will be served electronically to the registered participants identified on the Notice of Electronic Filing and copies will be e-mailed or mailed via regular U.S. mail to those participants identified as unregistered this 11th day of May, 2015.

/s/ Chris J. Tardio

Chris J. Tardio